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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/527,398	03/16/2000	Maximino Aguilar	AUS000147US1	1549

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EXAMINER

SURYAWANSHI, SURESH

ART UNIT

PAPER NUMBER

2185

DATE MAILED: 03/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/527,398	AGUILAR ET AL.
	Examiner	Art Unit
	Suresh K Suryawanshi	2185

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 1/22/03 amendments.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-38 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-38 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 01 August 2000 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.

4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_

## **DETAILED ACTION**

1. Claims 1-38 are presented for examination.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-38 are rejected under 35 U.S.C. 102(b) as being anticipated by Mikami et al. (US Patent no 5,704,031).

4. As per claims 1,10, 15, 23, 32, 37 and 38, Mikami et al teach a client computer at start up is diagnosing its operating environment (hardware, software, firmware, etc.) by itself and maintaining or repairing as needed. In this process, the client computer checks whether or not the version of the software stored in the client is the latest version per stored copy at the server unit [col. 2, lines 3-10; col. 5, lines 32-35, 46-55; col. 7, lines 32-35].

5. As per claims 2, 20 and 24, Mikami et al teach that the storage device is a non-volatile random access memory [inherent in a computer system].

6. As per claims 3, 12, 25 and 34, Mikami et al teach that the operating system is stored on the storage device [inherent in the system].

7. As per claims 4 and 26, Mikami et al teach that the storage device is a removable storage device locally connected to the data processing system [inherent to a computer system having a floppy drive, CD-ROM drive, etc.].

8. As per claims 5 and 27, Mikami et al teach that loading the operating system using the current boot code if the updated boot code is absent [inherent in the system as loading of the operating system does not start until the boot-up procedure completes].

9. As per claims 6 and 28, Mikami et al teach that replacing the current boot code with the updated boot code prior to loading the operating system [inherent in the system as loading of the operating system does not start until the boot-up procedure completes; col. 5, lines 46-55, update process is performed].

10. As per claims 7 and 29, Mikami et al teach

restarting the data processing system using the new current boot code [inherent in the system to do so otherwise there will be no effect of upgraded code]; and

loading the operating system using the new current boot code [inherent in the system as loading of the operating system does not start until the boot-up procedure completes].

11. As per claims 8 and 30, Mikami et al teach that the updated boot code is present if a boot code is present on the storage device in which the boot code is a later version of the current boot code [inherent in the system].
12. As per claims 9 and 31, Mikami et al teach that the updated boot code is present in a boot code is located on the storage device [inherent in the system].
13. As per claims 11 and 33, Mikami et al teach that searching a local storage device for the updated boot code prior to loading the operating system [inherent in the system as a local resources are usually checked first for the latest version of the code].
14. As per claims 13 and 35, Mikami et al teach that searching a storage device located remotely [col. 5, lines 46-55; a server unit].
15. As per claims 14 and 36, Mikami et al teach that the storage device is located on a server [col. 5, lines 46-55; a server unit].
16. As per claim 16, Mikami et al teach that updating of the current boot code instructions is performed by replacing the current boot code instructions in the first storage device with the updated boot code instructions in the second storage device [inherent in the system as the latest version will be downloaded from a second storage device located locally or on the network].

17. As per claim 17, Mikami et al teach that the processor unit loads the operating system using the current boot code instructions if updated boot code instructions are absent on the second storage device [inherent in the system as loading of the operating system does not start until the boot-up procedure completes].

18. As per claim 18, Mikami et al teach that the updated boot code instructions are present if any boot code instructions are present on the second storage device [inherent in the system as the latest version will be searched on second storage device located locally or remotely].

19. As per claim 19, Mikami et al teach that the updated boot code instructions are present if a newer version of the current boot code instructions is present [inherent in the system].

20. As per claim 21, Mikami et al teach that the second storage device is one of a removable non-volatile random access memory, a hard disk drive, a floppy disk, a CD-ROM, and a DVD-ROM [inherent in the system as these are well known storage devices].

21. As per claim 22, Mikami et al teach that the data processing system is a laptop computer, a palmtop computer, a personal computer, and a personal digital assistant [inherent in the system as these are well known computing devices].

22. Applicant's arguments with respect to claims 1-38 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suresh K Suryawanshi whose telephone number is 703-305-3990. The examiner can normally be reached on 9:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas C. Lee can be reached on 703-305-9717. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

sk  
March 4, 2003

*Dennis M. Butler*  
Dennis M. Butler  
Primary Examiner